



action as required under the Fourth and Fourteenth Amendments to the United States Constitution.” (Docket Entry No. 3, at 1). On July 7, 2022, the two police officers and the City of Houston moved to dismiss under Rule 12(b)(6). (Docket Entries No. 5, 6).

After noticing that AT&T’s “answer” contained a motion to dismiss, the court alerted the parties of the issue, and reset the upcoming initial conference, noting that “[t]he reset [was] based on additional time needed to address the pending motions to dismiss.” (Docket Entry No. 15).

Lee filed an amended complaint on July 29, 2022. The amended complaint includes more details about the allegations and partially recasts Lee’s claims. Lee still alleges a civil conspiracy, but he now also alleges a claim for “malicious prosecution” and alleges that the City of Houston “failed to adequately train or supervise [the officers] in the Texas Penal Code or Code of Criminal Procedure, specifically on issues of defining and identifying . . . Probable Cause.” (Docket Entry No. 16, at 91).

Lee did not seek the opposing parties’ written consent or this court’s leave to file the amended complaint. Rule 15 allows amendment as a matter of course only if the amendment is filed “21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Lee’s amended complaint was filed 22 days after the July 7, 2022, motions to dismiss, and 43 days after the first responsive pleading. The City of Houston, the officers, and AT&T have moved to strike the amended complaint as too late.<sup>1</sup>

The court denies the motions to strike. While Lee did not comply with Rule 15, Lee may have been confused by (1) the removal to federal court after Medrano’s response in state court, (2) AT&T’s response by “answer” instead of “motion,” and (3) this court’s notice of resetting on July

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<sup>1</sup> AT&T’s motion to join Chapman, Matthews, and the City of Houston’s motion to strike, Docket Entry No. 19, is granted.

28, 2022, notifying the parties that “[t]he reset [was] based on additional time needed to address the pending motions to dismiss.”

To streamline resolution of this case, the court denies the pending motions to dismiss, (Docket Entries No. 3, 5, 6), as moot. The court allows Lee to file his amended complaint, (Docket Entry No. 16). The court denies the motions to strike that complaint. (Docket Entries Nos. 17–18). The defendants may refile their motions to dismiss, or answers, to the amended complaint by no later **August 30, 2022**. Lee may respond by **September 20, 2022**. The initial conference is reset to **October 11, 2022**, at 10 A.M., by Zoom. A link will be separately set.

SIGNED on August 10, 2022, at Houston, Texas.

A handwritten signature in black ink, reading "Lee H. Rosenthal", written over a horizontal line.

Lee H. Rosenthal  
Chief United States District Judge